

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 24. BOARD OF PHYSICAL THERAPY EXAMINERS

PREAMBLE

1. **Sections Affected**

	<u>Rulemaking Action</u>
R4-24-101	Amend
R4-24-105	Amend
R4-24-106	Amend
R4-24-109	Amend
R4-24-201	Amend
R4-24-202	Amend
R4-24-203	Amend
R4-24-204	Amend
R4-24-301	Amend
R4-24-302	Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 32-2004(B)

Implementing statutes: A.R.S. §§ 32-2022, 32-2025, and 32-2041(E)
3. **The effective date for the rules:**

March 14, 1996
4. **A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Docket Opening:
1 A.A.R. 756, June 9, 1995

Notice of Proposed Rulemaking:
1 A.A.R. 1641, September 22, 1995
5. **The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Janice Stille, Executive Director

Address: Board of Physical Therapy Examiners
1400 West Washington, Suite 230
Phoenix, Arizona 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**

Throughout the rules, "physical therapy attendant" has been amended to read "physical therapy assistant" to conform with wording in the Board's statutes and to references that are used in the profession. The amendments to R4-24-101 are to add definitions of 3 terms that are used in the rules. Other amendments to this rule are to correct grammar and for clarification.

Amendments to R4-24-105, R4-24-106, R4-24-109, and R4-24-301 are to correct grammar and for clarification.

Amendments to R4-24-201 are to clarify that documentation that foreign-educated applicants submit to the Board to determine the sufficiency of their education must be prepared by a credentialing agency. Other amendments to this rule include (1) deleting language that is duplicative of the Board's statutes, (2) adding the requirement that applicants notify the Board of address changes, and (3) changes to correct grammar and for clarification.

Arizona Administrative Register
Notices of Final Rulemaking

Amendments to R4-24-202 are to delete language that is duplicative of the Board's statutes and to set forth the passing score on the licensure examination.

Amendments to R4-24-203 are to correct grammar, make the rule clearer, and to add the requirement that licensees notify the Board of address changes.

Amendments to R4-24-204 include simplifying the fee structure for examinations and reducing the fee for reinstating a licensee from \$150.00 to \$75.00. Specifically, the examination fee structure is being amended to eliminate having 5 different fees depending upon whether the applicant is taking the physical therapist exam, the physical therapist assistant exam, being reexamined, or is an out-of-state applicant. The amendment has 1 exam fee of \$225.00.

The amendments to the fee rule also include charging a nominal fee of \$5.00 for a copy of the Board's statutes and rules. One subsection of this rule, which merely informed about what the application fee covered, was deleted.

R4-24-302 was amended to include the word "assistant" and delete "attendant", to correct grammar, and to require licensees to provide information to the Board about the assistants that they are supervising.

These rule amendments will benefit applicants and licensees by making them clear, concise, and understandable and conform to current standards and statutes.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The summary of the economic, small business, and consumer impact:

The impact of these rule amendments, which is minimal, will be on applicants and licensees. Language changes regarding the examination passing score are consistent with national standards in the profession, and meet the goal of the Federation of State Boards of Physical Therapy to have criterion-referenced passing scores be the accepted method of examination scoring in all jurisdictions.

Requiring applicants and licensees to notify the Board of address changes has a very minor impact on those who must comply, compared with the time and effort involved by the Board in locating applicants or licensees who have not provided updated information.

The change in examination fee to \$225.00 for all examinees is justified by the increased cost of administering the exam. This rule has not been amended for more than 5 years. Although an increase has an economic impact, the impact on applicants is minimal. Because of the demand for physical therapists, employment after graduation and obtaining licensure is almost certain. Therefore, applicants should not have a financial hardship due to the examination fee.

The requirement that licensees provide information to the Board about the assistants that they are supervising is a minimal reporting requirement and helps the Board keep track of the fewer than 100 physical therapy assistants currently licensed in Arizona.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

No substantive changes were made between the proposed rules and the final rules, nor were any supplemental notices filed. The only changes made between the proposed and final rules were primarily to correct format and grammar.

10. A summary of the principal comments and the agency response to them:

No comments were received.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

12. Incorporations by reference and their location in the rules:

None.

13. Was this rule previously adopted as an emergency rule?

No.

14. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 24. BOARD OF PHYSICAL THERAPY EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

Section	
R4-24-101.	Definitions
R4-24-105.	Filing and Investigation of Violations <u>Consumer</u> <u>Complaints</u>
R4-24-106.	Hearing Procedures
R4-24-109.	Rehearing or <u>Review</u> of Board Decisions

ARTICLE 2. LICENSING PROVISIONS

Section	
R4-24-201.	Applications
R4-24-202.	Examinations <u>Examination Scores</u>
R4-24-203.	<u>Renewal of License and Address Changes</u>
R4-24-204.	Fees and Photocopy Charges

ARTICLE 3. REGULATORY PROVISIONS

Section

R4-24-301. Professional Practice

R4-24-302. Delegation of Tasks to Physical Therapist Assistants, and Aides and Attendants

ARTICLE 1. GENERAL PROVISIONS

R4-24-101. Definitions

In these rules unless the context otherwise requires, the following definitions of terms shall apply:

1. "Accredited physical therapy education program" or "physical therapy assistant program" means a program ~~which that~~, at the time of the applicant's graduation ~~therefrom~~, was approved by an agency recognized as qualified to accredit physical therapy or physical therapy assistant programs by either the U.S. Department of Education or the Council on Post-Secondary Accreditation ~~to accredit physical therapy or physical therapy assistant programs~~.

2. "Credentials evaluation" means a written appraisal by International Consultants of Delaware (ICD), International Credentialing Associates (ICA), or an appraisal equivalent to ICD's or ICA's done by another credentialing agency, following review of documentary evidence of a foreign-educated applicant's education to determine whether the applicant's education is substantially equivalent to that of an applicant graduated from an accredited physical therapy education program, pursuant to A.R.S. § 32-2027(A).

"Criterion-referenced passing point" means the minimum acceptable score, calculated using the method determined by the Professional Examination Service, that an applicant must obtain on the physical therapist licensure examination.

"Federation of State Boards of Physical Therapy" means the national organization that comprises physical therapy credentialing boards throughout the United States and that developed the national physical therapy examination.

3. "Good moral character" means ~~the person has not been convicted of a nature that conforms to accepted behavioral standards as shown by no conviction for a felony relating to the practice of physical therapy within 5 years or a misdemeanor relating to the practice of physical therapy or involving moral turpitude within 2 years prior to application.~~

4. "Initial evaluation" means ~~the an~~ assessment of the a patient's physical condition, complaint, and objective findings; ~~with regard regarding to~~ the patient's diagnosis, if any, to ascertain the patient's need for physical therapy and whether ~~further~~ consultation with the referring practitioner, ~~if any~~, or other health care practitioner is necessary before ~~the a~~ physical therapy plan of treatment is devised and implemented.

5. "Licensee" means ~~a person an individual~~ licensed by the state Arizona as a physical therapist.

6. "On-site supervision" means ~~the a~~ responsible licensee, ~~when supervising directing~~ the provision of direct patient care ~~by a physical therapist assistant or aide~~, is on the premises and ~~physically~~ available within a reasonable ~~an~~ amount of time, ~~based on~~ that is reasonable considering the condition of the patient, ~~the~~ experience of the ~~assistant or aide~~, and ~~the~~ type of therapy ~~being~~ provided.

6. "Physical therapy assistant or aide or attendant" means ~~a person an individual who assists provides direct patient care, under the on-site supervision, of a physical therapist, who has been trained by the physical therapist, and who performs procedures commensurate with the assistant's or aide's or attendant's training.~~

7. "Remedial measures" means ~~successful completion of~~ a program of study as recommended by the Board.

8. "Substantially similar" means, for purposes of A.R.S. § 32-2023(A), ~~means that an applicant who files the requirements for licensure by endorsement has graduated include graduating from an accredited physical therapy education program, passed passing the national licensing examination recognized by the Board at the time the applicant passed the examination in accordance with the Arizona standards then in effect with the criterion-referenced passing point required by the Board at the time the examination was taken, and is being in good standing in all states in which the applicant is or has been currently or previously licensed.~~

9. "Suspension" means removal of license for a period not to exceed ~~three~~ 3 years.

R4-24-105. Filing and Investigation of violations Consumer Complaints

A. Any ~~person~~ individual who, in good faith believes, that a licensee is or may be guilty of unprofessional conduct or incompetence, may file a consumer complaint with the Board. ~~Official complaint Complaint forms may be obtained from the Board office. If an official complaint form is not used, the~~ The complaint complainant shall ~~contain~~ provide the following information:

1. ~~the name~~ Name of the licensee ~~complained about~~ who is the subject of the consumer complaint;
2. ~~the name~~ Name and address of the person filing the complaint, ~~unless the complainant desires anonymity;~~
3. ~~the nature~~ Nature of the consumer complaint;
4. ~~The details~~ Details of the consumer complaint with pertinent dates and copies of any relevant documents;
5. ~~whether Whether the person filing the complaint complainant has contacted any other another organization organizations or the licensee concerning the consumer complaint;~~
6. Whether the complainant has contacted the licensee concerning the consumer complaint and the licensee's response, ~~if any; and the details of the complaint with pertinent dates and copies of any relevant documents; an expression of the willingness or unwillingness on the part of the person filing the complaint~~
7. Whether the complainant is willing to testify ~~in a legal at~~ a hearing. ~~The complaint may be signed or filed anonymously.~~

B. The president of the Board, or the president's designee, shall ~~inform the licensee provide notice of the consumer complaint to the licensee, in writing, within 180 days of the Board receiving the complaint, and request a written response from the licensee to be submitted~~ The licensee shall submit a written response, including copies of records that are pertinent to the consumer complaint, to the Board within ~~ten~~ 10 days from the date that notice of the consumer complaint was mailed or hand-delivered to the licensee. ~~On request, the licensee shall furnish any records which are pertinent to the complaint. If further investigation is required, the~~ The Board may hire an investigator to ~~continue the conduct investigation~~ investigations relevant to the consumer complaint. The investigator

shall submit a written report of all findings to the Board.

R4-24-106. Hearing Procedures

- A. The Board shall conduct ~~informal~~ informal interviews pursuant to A.R.S. § 32-2042, in the following manner.
1. ~~Notice~~ The Board shall send a written notice of the informal interview to all parties, by personal service or certified mail, return receipt requested at least 20 days before the informal interview, shall contain containing the following information:
 - a. ~~The time~~ Time, date, and place of the interview;
 - b. ~~An explanation~~ Explanation of the informal nature of the proceeding;
 - c. ~~The licensee's~~ Licensee's right to appear with or without legal counsel;
 - d. ~~A short description of the subject of the interview.~~ Statement of the matters asserted and issued involved; and
 - e. ~~The licensee's~~ Licensee's right to a formal hearing, held pursuant to A.R.S. §§ 32-2042 and 32-2042.01, in place lieu of the informal interview.
 2. During an informal interview, the following procedure shall be used:
 - a. Introduction of the Board members present;
 - b. Swearing in of licensee and witnesses;
 - c. Optional opening comment by Board or staff;
 - d. Optional opening comment by licensee;
 - e. Questioning ~~and/or examination~~ of the licensee and witnesses;
 - f. Optional closing statement by licensee;
 - g. ~~Board deliberations.~~ Deliberations by Board; and
 - h. Written Decisions findings of fact, conclusions of law, and order of the Board.
- B. Formal hearing
1. ~~In a contested case, all parties shall have an opportunity to be heard after reasonable notice.~~
 2. ~~Notice~~ The Board shall send written notice of a formal hearing to all parties, by personal service or certified mail, return receipt requested, shall be served personally or by registered mail not less than at least 30 days prior to before the hearing date.
 - 3-2. The president of the Board may continue, reschedule, or extend ~~the a~~ hearing for the performance of acts required by law or the Board.
- C. Records
1. The Board ~~All hearings shall be mechanically or stenographically recorded~~ record all hearings.
 2. ~~The Board or a party may request that a hearing transcript~~ Transcripts may be prepared at the request and expense of the Board or any party to a hearing.
 3. ~~Parties who request transcripts~~ A party that requests a transcript be prepared shall pay transcription costs.

R4-24-109. Rehearing or Review of Board Decisions

- A. Except as provided in subsection (G), ~~any~~ a party to a ~~disciplinary action contested case before the Board~~ who is aggrieved by the Board's decision rendered in the action may file with the Board a written motion for rehearing or review. The motion shall be filed within ten 15 days after service of the decision and shall particularly state the grounds for the motion. For purposes of this subsection, a decision is ~~considered~~ served when personally delivered or sent by certified mail to the ~~parties'~~ party's last known residential or business address.
- B. A motion for rehearing or review ~~under this Rule~~ may be amended at any time before it is ruled upon by the Board. A response may be filed to a motion or amended motion by any

other party, within ~~ten~~ 10 days of service of the motion or amended motion. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

- C. A rehearing or review of a decision may be granted for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings of the Board or the prevailing party, or any order or abuse of discretion which deprived the moving party of a fair hearing;
 2. Misconduct of the Board or the prevailing party;
 3. Accident or surprise which could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence which could not, with reasonable diligence, have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties or disciplinary action;
 6. Error in the admission or rejection of evidence or other errors of law in the original hearing; or
 7. A decision that is not justified by the evidence or is contrary to law.
- D. The Board may ~~affirm or modify the decision, or~~ grant a rehearing or review to any or all of the parties. The rehearing or review may cover all or part of the issues for any of the reasons ~~set forth above~~ stated in subsection (C). An order granting a rehearing or review shall particularly state the grounds for granting the rehearing or review, and the rehearing or review shall cover only the grounds stated.
- E. No later than ~~ten~~ 15 days after making a decision, the Board may order a rehearing or review on its own initiative for any of the reasons stated in subsection (C). After giving notice to the parties or their counsel, the Board may grant a motion for rehearing or review on grounds not stated in the motion. In either case, the order granting a rehearing or review ~~must~~ shall specifically state the grounds for the rehearing or review.
- F. When a motion for rehearing or review is based upon affidavits, the affidavits shall be served with the motion. An opposing party may serve opposing affidavits within ~~ten~~ 10 days of service of the original affidavits. This ~~ten~~ 10-day period may be extended ~~up to an additional~~ for not more than 20 days by the Board for good cause shown or by written stipulation of the parties. The Board may permit ~~Reply~~ reply affidavits ~~may be permitted.~~
- G. ~~If in a particular decision the Board makes a specific findings finding that immediate effectiveness of a particular decision is necessary for the preservation of public health and that rehearing or review is impracticable, unnecessary, or contrary to public interest, the decision may be issued as final without opportunity for rehearing or review. If a decision is issued as final, in this way, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions, which are set forth at A.R.S. § 12-901, et seq., are applicable.~~

ARTICLE 2. LICENSING PROVISIONS

R4-24-201. Applications

- A. ~~Applications~~ An applicant for licensure shall ~~be accompanied by the~~ submit the following information to the Board:
1. An application;
 2. The application fee set forth in R4-24-204;
 3. ~~an~~ An official transcript from an accredited program;
 4. ~~an~~ An examination application or endorsement form;
 5. The completed questionnaire on state statutes and rules applicable to physical therapy; and
 6. ~~official test~~ Official examination scores from the Profes-

Arizona Administrative Register
Notices of Final Rulemaking

sional Examination Service.

- B.** Foreign-educated applicants shall also submit a credentials evaluation.
- C.** Applications shall be made only on official application forms; which may be obtained from the Board office and shall contain the following information:
1. Name and address of applicant;
 2. Date of birth;
 3. Social security number (optional);
 4. Post-high school education;
 5. Professional experience;
 6. List of states in which applicant has worked or been licensed as a physical therapist;
 7. Date and location of professional examination, if previously taken;
 8. Credentials evaluation if foreign educated;
 - 9-8. History of any felony or misdemeanor conviction of or a violation of federal, state, or local statutes law or rule, other than for a minor traffic violations violation; and
 - 10-9. A certification Certification that the application is complete and accurate.
- B.D.** An applicant for licensure by examination shall submit to the Board Examination an examination application applications shall be accompanied by the and examination fee set forth in R4-24-204 and received by the Board at least 45 days prior to before the examination date. Official examination Examination applications may be obtained from the Board office.
- C.** If the Board determines that an application is incomplete or unacceptable and the applicant disagrees, the applicant, on request, shall be granted a hearing to determine the status of the application. The hearing shall be conducted pursuant to Title 41, Chapter 6, Article 1, Arizona Revised Statutes.
- D.E.** The Board shall require each An applicant for licensure to shall complete a questionnaire on the state statutes and rules applicable to physical therapy. The Board shall mail This this questionnaire shall be mailed with each application requested and shall be completed and returned with the application.
- E.** Applicants shall notify the Board, in writing, within 10 days of a change of address to be used by the Board.

R4-24-202. Examinations Examination Scores

- A.** An applicant may not take the licensure examination more than twice without approval of the Board. Such approval may be granted only upon proof of remedial measures taken by the applicant. An applicant who fails to pass only a portion of the examination may retake only those portions and not the entire examination.
- B.** A passing score shall be 1.5 standard deviation below the mean, or better, as established by the examination service for each exam. Each section of the examination shall be evaluated and scored independently. An applicant who fails to score at least 1.5 standard deviation below the mean on any section shall retake and pass that section in order to eligible for licensure.

To be licensed as a physical therapist, an applicant for licensure by examination shall obtain a score on the licensure examination that equals or exceeds the criterion-referenced passing point. The criterion-referenced passing point shall be set to equal a scaled score of 600 based on a scale ranging from 200 to 800.

R4-24-203. Renewal of License and Address Changes

- A.** Each licensee is Licensees responsible for renewal of his or her shall renew their license licenses at or before the end of each 2-year period. Failure on the part of the Board to inform a licensee of license expiration is not a defense in cases of delinquency or lapse shall not justify or excuse a licensee's nonrenewal or untimely renewal.

- B.** A licensee shall submit Renewal renewal payments to the Board may be made by mail in the form of a by cashier's check, money order, or personal check. Payment may also be made or in person at the Board office by cashier's check, money order, personal check, or cash.
- C.** Each licensee who renews his or her license shall receive The Board shall mail a receipt and registration card, which that signifies that the licensee is named licensee has a current and valid license to each licensee who renews a license.
- D.** Licensees shall notify the Board, in writing, within 10 days of a change of address to be used by the Board.

R4-24-204. Fees and Photocopy Charges

- A.** The Board shall charge the following fees relating to licensure and examinations:
1. Original license application Application fee - \$100
 2. Examinations Examination or each reexamination for a
 - a. Initial physical therapist or physical therapist assistant examination - \$125 225
 - b. Re-examination (two or more sections) \$125
 - c. Re-examination (one section) \$75
 3. Administering examinations for out-of-state applicants
 - a. Physical therapist examination \$50
 - b. Physical therapist assistant examination \$30
 - 4-3. Original license:
 - a. Twelve months or more - \$75
 - b. Less than twelve months - \$50
 - 5-4. Biennial renewal - \$75
 - 6-5. Duplicate license - \$10
 - 7-6. Reinstatement - \$150 75
- B.** If an applicant is unable to take the examination at the time announced, the applicant shall so notify the Board in writing not less than two weeks prior to the date set and the Board shall refund to the applicant 80 percent of the examination fee paid by the applicant.
- C.** The application fee covers the cost of reviewing and verifying information in the application and issuance and renewal of a temporary license to applicants who are found to have met the requirements of A.R.S. § 32-2026 or of a probationary permit to applicants who are found to have met the requirements of A.R.S. § 32-2027.
- D.B.** The Board shall charge the following fees for copies of public records:
1. For commercial purposes: \$.25 per name and address and \$15.00 per hour of search time.
 2. For noncommercial purposes: \$.25 per page.
 3. Requests for copies of public records shall be accompanied by a notarized statement of the purpose for which the documents are requested and prepayment of fees. Official request forms shall be used and may be obtained from the Board office.
- C.** The Board shall charge \$5.00 for each copy of its statutes and rules booklet.

ARTICLE 3. REGULATORY PROVISIONS

R4-24-301. Professional Practice

- A.** The A licensee shall provide the referring practitioner, if any, with any information that will may assist in the determination of an accurate diagnosis. A licensee shall provide this information, verbally or in writing, after a patient is initially evaluated by the licensee.
- B.** The A licensee shall be responsible for and shall not delegate the following responsibilities to an individual who is not a licensee:
1. Initial written evaluation of for each patient;
 2. Planning of each patient's treatment program and deter-

Notices of Final Rulemaking

mining which elements of the program may be delegated to ~~a physical therapist assistant, or aide, or attendant;~~

3. Periodic written re-evaluation, including observation, and written documentation of the treatment program and of the patient's progress; and
4. Written evaluation discharge summary of the patient and ~~his or her~~ the patient's response to the treatment at the termination of the treatment program.

R4-24-302. Delegation of Tasks to Physical Therapist Assistants, ~~and Aides, and Attendants~~

- A. ~~The A~~ licensee shall not delegate to a less qualified person any service ~~which that~~ requires the skill, knowledge, and judgment of a licensed physical therapist.
- B. Adequate supervision by a licensee of physical therapist assistants, or aides, or attendants includes the following:
 1. Evaluation of the performance of delegated responsibilities and assigned tasks ~~by assistants, aides, and attendants;~~
 2. Instruction and training ~~of aides and attendants~~ in

required skills; ~~which include~~

3. Maintenance of written documentation of ~~the~~ instruction and training provided; ~~and of~~
4. periodic Periodic re-evaluation of the performance of delegated tasks ~~by the aides and attendants;~~
- 3-5. On-site supervision of no more than a combination of three physical therapist assistants, or aides, or attendants engaged in direct patient care; and
- 4-6. Verification that ~~a~~ physical therapist assistant graduated from a Board approved, accredited, physical therapy education program.
- C. Within 10 days of undertaking the supervision of a physical therapist assistant, a licensee shall provide written notice to the Board of the name, address, place of employment, and education verification for each physical therapist assistant.
- C.D. ~~The A~~ supervising physical therapist ~~is~~ shall be responsible for all physical therapy care given by physical therapist assistants, and aides and attendants.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 19. DEPARTMENT OF HEALTH SERVICES

VITAL RECORDS AND STATISTICS

PREAMBLE

1. Sections Affected

R9-19-101	<u>Rulemaking Action</u>
R9-19-413	Amend
	Amend
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 8-106.01, 36-136(H)(3), and 36-303

Implementing statute: A.R.S. § 36-342
3. The effective date for the rules:
February 12, 1996
4. A list of all previous notices appearing in the Register addressing the final rule:
Notice of Proposed Rulemaking:
1 A.A.R. 1118, July 21, 1995
5. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Renee Gaudino, Manager

Address: Office of Vital Records
2727 West Glendale
Phoenix, Arizona 85051

Telephone: (602) 255-3260

Fax: (602) 255-3259
6. An explanation of the rule, including the agency's reasons for initiating the rule:
R9-19-101(9) is being amended to clarify that affidavits are not considered to be "independent factual documents". The reason for the definition revision is that there is currently ambiguity in the definition of "independent factual document" which permits applicants for delayed birth registration to arguably utilize affidavits as "independent factual documents" to establish the necessary documentation for creation of such delayed registration. This was neither the intent of the current rules nor the current practice followed by the Office of Vital Records. In addition, R9-19-413 is being amended to add a fee for conducting searches of the putative fathers registry maintained by the Department in accordance with A.R.S. § 8-106.01.
7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:
Not applicable.

Notices of Final Rulemaking

8. The summary of the economic, small business, and consumer impact:

The rule amendment to the definition of "independent factual document" will have no economic impact as the change is to clarify the current interpretation and practice followed by the Office of Vital Records for the establishment of delayed birth registrations. The fee being established is to help defray the costs of maintaining and searching the putative fathers registry which the Department was required to establish by law but which was provided no funding by the legislature for the 1st year. During the latest session, a small appropriation was provided to assist in more fully establishing the registry, particularly for purposes of computerizing it. It is estimated that there will be approximately 700 searches required each year, although that is based on only a few months experience. At \$10 per search, \$7,000 in fees will be generated annually. As a whole, this total is a very modest cost impact; and, individually, at \$10, the impact is very minimal. It is anticipated that the cost will be passed on to the prospective adoptive parents.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

R9-19-101, the definitions Section, was amended and restructured to read as follows:

9. "Independent factual document" means a record, paper, or writing which is not an affidavit and which:
 - a. Memorializes a transaction, billing, legal relationship, or occurrence;
 - b. ~~Which~~ evidences the facts sought to be established by or for a registrant; and,
 - c. ~~Which~~ was prepared, created, printed, or authored by a person, company, corporation, or business ~~which that~~ is neither the registrant nor related to the registrant.

10. A summary of the principal comments and the agency response to them:

No comments were received, written or oral.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

12. Incorporations by reference and their location in the rules:

None.

13. Was this rule previously adopted as an emergency rule?

No.

14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 19. DEPARTMENT OF HEALTH SERVICES

VITAL RECORDS AND STATISTICS

**ARTICLE 1. ADMINISTRATIVE ORGANIZATION,
DUTIES, AND PROCEDURES**

Section

R9-19-101. Definitions

ARTICLE 4. ACCESS TO RECORDS; COPIES; FEES

R9-19-413. Fee Schedule

**ARTICLE 1. ADMINISTRATIVE ORGANIZATION,
DUTIES, AND PROCEDURES**

R9-19-101. Definitions

In this Chapter, unless the context otherwise requires:

1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. No change.
7. No change.
8. No change.
9. "Independent factual document" means a record, paper, or writing which is not an affidavit and which:
 - a. Memorializes a transaction, billing, legal relationship, or occurrence;
 - b. ~~Which~~ evidences the facts sought to be established by or for a registrant; and,
 - c. ~~Which~~ was prepared, created, printed, or authored by a person, company, corporation, or business

~~which that~~ is neither the registrant nor related to the registrant.

10. No change.
11. No change.
12. No change.
13. No change.
14. No change.
15. No change.

ARTICLE 4. ACCESS TO RECORDS; COPIES; FEES

R9-19-413. Fee Schedule

A. In the following an applicant shall be charged:

1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. No change.
7. No change.
8. No change.
9. No change.
10. No change.
11. No change.
12. No change.
13. Ten dollars for each search for a putative father in the putative fathers registry.

B. No change.

CORRECTIONS TO NOTICES OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION MOTOR VEHICLE DIVISION

Editor's Note: In 2 A.A.R. 1216, March 15, 1996, a Notice of Final Rulemaking was published for 17 A.A.C. 4, the Department of Transportation - Motor Vehicle Division. R17-4-435, R17-4-435.01, and R17-4-435.02 were listed as amended. This Notice was printed in error as the agency had not followed the proper steps of final rulemaking as established in the Administrative Procedure Act. In order to be adopted as final rules, the Governor's Regulatory Review Council must review and approve the Sections affected, which had not occurred in this case.

We apologize for any inconvenience this error has caused.